

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMERICAN CRUISE LINES, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 13-324 (RGA)
)	
HMS AMERICAN QUEEN STEAMBOAT)	
COMPANY LLC, and AMERICAN QUEEN)	
STEAMBOAT OPERATING COMPANY,)	
LLC,)	
)	
Defendants.)	

VOIR DIRE

October 24, 2018

VOIR DIRE

Good morning, ladies and gentlemen. I am Judge Andrews. We are going to select a jury in a civil case called *American Cruise Lines v. American Queen Steamboat Company et al.*

I am going to ask you a series of questions to help the Court and the attorneys in the jury selection process. Before I ask any questions, I am going to ask the Deputy Clerk to swear the jury panel to answer any questions truthfully. (To Deputy, Please swear the panel).

If any of you answer “yes” to any of the questions that I ask, please raise your hand, and, when recognized by me, please state your jury number. At the end of the questions, the Deputy Clerk will ask some of you to take seats in the jury box, and, after that, the lawyers and I may ask those of you who answered “yes” to one or more questions to come up to the bench to discuss your answers with the lawyers and me.

The presentation of evidence in this case is expected to take 5 days, but jury deliberations could extend your service beyond that. The schedule that I expect to keep over the days of evidence presentation will include a morning break of fifteen minutes, a lunch break of an hour, and an afternoon break of fifteen minutes. We will start at 9:30 a.m. and finish no later than 5:00 p.m. each day.

1. Does the schedule that I have just mentioned present a special problem to any of you?
2. This case concerns the claims of both Plaintiff and Defendants that their respective uses of different brands, trademarks, and/or names creates a likelihood of confusion among consumers or potential consumers and therefore infringes upon their rights in their respective trademarks.

Plaintiff, American Cruise Lines, Inc. owns and operates overnight passenger cruise vessels on domestic U.S. waterways, including the Mississippi River system and the Columbia and Snake River system. It does so under the registered trademark and brand name, AMERICAN CRUISE LINES. Plaintiff operates vessels with “*American*” as the first word of the vessel name, and has registered the names of those vessels as federal trademarks. Plaintiff has sued Defendants based on Defendants’ use of the trademark and brand name AMERICAN QUEEN STEAMBOAT COMPANY, and Defendants’ naming and operation of vessels with “*American*” as the first word of the vessel name. Defendants deny Plaintiff’s claims and assert various defenses to those claims.

Defendants are related companies, HMS American Queen Steamboat Company LLC and American Queen Steamboat Operating Company, LLC. Defendants also operate overnight passenger cruise vessels on the Mississippi River system and the Columbia and Snake River system. Defendants operate under the registered trademark and brand name AMERICAN QUEEN STEAMBOAT COMPANY. Defendants also operate vessels with “*American*” as the first word of the vessel name, and Defendants have also registered the names of their vessels as federal trademarks. Defendants have sued Plaintiff based on Plaintiff’s naming and operation of

vessels with “*American*” as the first word of the vessel name. Plaintiff denies Defendants’ claims and asserts various defenses to those claims.

The jury in this case will be asked to decide issues of trademark infringement asserted by the parties, defenses raised by the parties, related factual matters, and claims for damages. For those of you who end up being on the jury, I will give more detailed instructions on the law later in the case.

Have any of you heard or read anything about this case?

3. The lawyers and law firms involved in this case are:

Representing Plaintiff:

Gorman & Williams, Baltimore, Maryland

David Williams

Charles Simmons Jr.

Michael Naccarato

Morris, Nichols, Arsht & Tunnell LLP, Wilmington, Delaware

Jeremy Tigan

Stephen Kraftschik

Jeffrey Lyons

Representing Defendants:

Middleton Reutlinger, Louisville, Kentucky

Dennis Murrell

Brian McGraw

Schnader Harrison Segal & Lewis LLP, Wilmington, Delaware

Richard Barkasy

Daniel Pereira

Do any of you or your immediate families, such as spouse, child, parent, or sibling, know any of the attorneys or law firms I have just named?

4. Have any of you or any member of your immediate families had any business dealings with, or been employed by, any of these attorneys or law firms?

5. Have any of you or any member of your immediate families ever been employed by American Cruise Lines?

6. Have you or any of you immediate families ever been employed by American Queen Steamboat Company, Hornblower Marine Services or HMS Global Maritime?

7. Have any of you or any member of your immediate families ever had a business

relationship with American Cruise Lines, American Queen Steamboat Company, Hornblower Marine Services or HMS Global Maritime?

8. Have any of you or any member of your immediate families ever had any experience, good or bad, with American Cruise Lines, American Queen Steamboat Company, Hornblower Marine Services or HMS Global Maritime, that might make it difficult for you to be a fair and impartial juror in this case?

9. Have any of you or any member of your immediate families ever worked in the domestic US overnight passenger vessel cruise industry?

10. Have you ever worked in the travel business in a capacity involving domestic US overnight passenger vessel cruising?

11. Have you ever worked in the advertising industry in a capacity involving domestic US overnight passenger vessel cruising?

12. Have you ever worked in a digital or Internet marketing company in a capacity involving domestic US overnight passenger vessel cruising?

13. Have you taken an overnight cruise in the United States on a vessel owned or operated by American Cruise Lines?

14. Have you taken an overnight cruise in the United States on a vessel owned or operated by American Queen Steamboat Company?

15. Have you taken an overnight cruise in the United States on a vessel owned or operated by the Great American Steamboat Company?

16. Have you taken an overnight cruise in the United States on a vessel owned or operated by the Delta Queen Steamboat Company?

17. Have you ever been involved in a dispute with a cruise company?

18. Do you possess any opinions about either American Cruise Lines or American Queen Steamboat Company that might keep you from being a fair and impartial juror in this case?

19. **[Subject to further discussion at pretrial conference]** Companies, organizations, and agencies that may be mentioned in the testimony in this case include:

AMA Capital Partners
Ambassadors International
Carnival Cruise Lines
Celebrity Cruise Lines
Cruise Lines International Association, known as CLIA
Cruise West

Delaware North Partnership
Delta Queen Steamboat Company
French America Line
Great American Steamboat Company
Greene Line Steamers
HMS Global Maritime
Hornblower Marine Services
Majestic America Line
Paul Gaugin Cruises
Pittco Management LLC
Travel Marketing Resources
Uncommon Journeys
Un-Cruise Adventures
US Maritime Administration, known as MARAD
Windstar Cruises

Do any of you have any personal familiarity with any of these companies, organizations, or agencies?

20. The potential witnesses in this case are:

Jeremy Batson
Tim Beebe
Kallie Biggs
Dylan Bernstein
Shawn Bierdz
Hans Birkholz
Brad Csuka
Barbara Davis
Mark Detillion
Christine Duffy
Cate Elsten
Dr. Basil Englis
Mark Harrison
Robert Herre, Esq.
Peter Kent
Jeff Krida
Gary Krugman, Esq.
Christopher Kyte
Diane Moore
Michelle Munro
Liz O'Shaughnessy
Jean-Raymond Pare
John Pontius
Dr. Hal Poret
Susan Renner
Charles A. Robertson

Charles B. Robertson
Chris Rosenthal
Timothy Rubacky
Bob Salmon
Brian Seale
Susan Shultz
Bruce Silverman
Rick Simonson
Leigh Strinsky
Ted Sykes
Captain Henry Thorpe
Vincent Van Oss
John Waggoner
Eric Welter
Susan Whewell

Are any of you familiar with any of these potential witnesses?

21. Have you or any member of your immediate family ever been employed by the United States Patent and Trademark Office?

22. Have you or any member of your immediate family ever applied for, or obtained, a United States or foreign trademark?

23. Have you or any member of your immediate family ever been involved in a dispute about trademark rights?

24. Do you have any opinions about trademarks, trademark rights, or the United States Patent and Trademark Office that might make it difficult for you to be a fair and impartial juror in this case?

25. Have you served on a jury in a civil case within the last fifteen years?

26. If you are selected to sit as a juror in this case, are you aware of any reason why you would be unable to render a verdict based solely on the evidence presented at trial?

27. If you are selected to sit as a juror in this case, are you aware of any reason why you would not be able to follow the law as I give it to you?

28. Is there anything, such as poor vision, difficulty hearing, other physical or medical problems, or difficulty understanding spoken or written English, that would make it difficult for you to serve on this jury?

29. This is the last question. Is there anything else, including something you have remembered in connection with one of the earlier questions, that you think you would like to tell me in connection with your service as a juror in this case?